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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/445,769	04/19/2000	DO-HYOUNG KIM	Q57164	1355

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SUGHRUE MION ZINN MACPEAK & SEAS
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WASHINGTON, DC 20037-3202

EXAMINER

PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
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2182

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/445,769	Applicant(s) KIM, DO-HYOUNG	
	Examiner TAMMARA R. PEYTON	Art Unit 2182	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19,20,22-27 and 29-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19,20,22-27,29-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

Claims 19 and 24, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims recite structural elements as well as method steps performed by the system. In *IPXL Holdings v. Amazon.com Inc*, CAFC held that these types of claims are indefinite because it is unclear whether infringement occurs when one creates a system configured to perform these steps or when the system is actually used to perform these steps (see *IPXHoldings*, 430 F.3d 1377, 1384 (Fed. Cir. 2005))

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 29 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. In view of Applicant's disclosure, nowhere in the specification is the computer usable medium limited to statutory subject matter, instead

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it is defined as including both statutory subject matter such as CD-ROM, etc. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

To overcome this type of 35 U.S.C. 101 rejection, preamble of the claim should be amended to include the language of "a computer readable storage medium." In the specification the storage media such as CD-ROM, floppy diskette, hard disk drive needs to be separated into a different category from the transmission media such as signal-bearing media, communication media, .networks, and software.

Claims 30-32 inherit the same deficiency due to the dependency on the claim 29.

Claims 19 and 24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

As per claims 19 and 24, a valid process under 35 USC § 101 must either 1) transform underlying subject matter, or 2) be tied to another statutory class, such as a particular apparatus. In order to qualify as a statutory process, the claim should positively recite the other statutory class to which it is tied, for example by identifying the apparatus that accomplishes the method steps. In this case, claim 19 and 24 does not 1) transform underlying subject matter, or 2) does not be tied to another statutory class, such as a particular apparatus. Therefore, claims 19 and 24 are invalid under 35 USC § 101.

Further, a recitation of a computer in the preamble does not appear to be sufficient to tie the process to a particular apparatus. A preamble is generally not

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accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone (see *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1.951)).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 19, 20, 22-27, and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over McAdam et al., (US 6,480,882).

The claims and only the claims form the metes and bounds of the invention. "Office personnel are to give claims their broadest reasonable interpretation in light of the supporting disclosure. *In re Morris*, 127 F.3d 1048, 1054-55, 44 USPQ2d 1023, 1027-28 (Fed. Cir. 1997). Limitations appearing in the specification but not recited in the claim are not read into the claim. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541,550-551 (CCPA 1969)" (MPEP p 2100-8, c 2, I 45-48; p 2100-9, c 1, I 1-4). The Examiner has full latitude to interpret each claim in the broadest reasonable sense. The

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Examiner will reference prior art using terminology familiar to one of ordinary skill in the art. Such an approach is broad in concept and can be either explicit or implicit in meaning.

As per claim 19, 21-26, and 28-30, McAdam teaches a method of managing a network comprising a plurality of network devices (server, 14, clients, 22, Fig. 1), the plurality of network devices being connected to the network as a client or server, the method comprising:

- establishing a communication channel between a client device (22) and a second network device (one of the servers);
- transmitting from the server device a predetermined signal that indicates information on at least one of a plurality of functions and operating status of the server network device, to the client device;
- receiving the predetermined signal at the client device and notifying a user according to the information of the server device; and
- allowing the user (inherently the an administrator/operator) to control an operation of the server device from the client device by utilizing the received information. The received information includes ASM (40) that is downloaded from the server to the client thereby enabling the client to control the server. Further, as per claim 22, 23, McAdam teaches wherein the notifying comprises displaying the information on a screen of the client device and wherein the user can access and control the server device using a web browser. Further, by way of definition, it is contemplated that a "client" is a device providing control interface service to a human operator, including a graphical display

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hardware for down communication and a mouse or other point-and-click device for up (or return) communication. A "server" is contemplated as a module supplying a service, which may be any service other than a control interface provided by a client. Stated differently, the server/client relationship is a control relationship, wherein the server provides a service but a client may use the data, as a DTV displays video data, but does not manipulate or alter the data. It is thus consistent with this definition to observe that, frequently, a server may be a source of information and a client (a browser for example) may be a consumer of information. Therein, McAdam teaches that client 22 receives executable operations on the server 26, to perform such functions as controlling, monitoring, managing or maintaining the server system via user input. (Abstract, col. 3, lines 23-col. 7, lines 1-52)

As per claim 20, McAdam teaches wherein the predetermined signal is transmitted via a HTTP protocol.

As per claim 27 and 31, McAdam teaches storing the information regarding the second network device; comparing the current information regarding the second network device with pre- stored information regarding the second network device; and displaying contents of the change in the second network device made based on the comparison result on the screen.

Conclusion

The examiner requests, in response to this office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line number(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application. When responding to this office action, applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of art disclosed by the references cited or the objections made. He or she must also show how the amendments avoid such references or objections. See 37 C.F.R.I .III(c).

In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tammara Peyton whose telephone number is (571) 272-4157. The examiner can normally be reached between 6:30 - 4:00 from Monday to Thursday, (I am off every first Friday), and 6:30-3:00 every second Friday. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272- 6729. The fax phone number for the organization where this application or proceeding is assigned is (571) 273- 8300. Any inquiry of a general nature of relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272- 2100.

/Tammara R Peyton/

Primary Examiner, Art Unit 2182

July 28, 2009